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14 Attorneys for Plaintiff,
15 Jennifer Tierney

16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE DISTRICT OF ARIZONA

18 Jennifer Tierney,

19 Plaintiff,

20 vs.

21 ARS National Services, Inc.; and DOES 1-
22 10, inclusive,

23 Defendants.

Case No.:

COMPLAINT

JURY TRIAL DEMANDED

1 For this Complaint, the Plaintiff, Jennifer Tierney, by undersigned counsel,
2 states as follows:
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt
6 Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA") in their illegal efforts
7 to collect a consumer debt.
8

9 2. Original and supplemental jurisdiction exists pursuant to 28 U.S.C. §§ 1331,
10 1367.
11

12 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that
13 Defendants transact business here and a substantial portion of the acts giving rise to
14 this action occurred here.
15

16 **PARTIES**

17 4. The Plaintiff, Jennifer Tierney (hereafter "Plaintiff"), is an adult individual
18 residing at 5015 W. Kristal Way, Glendale, Arizona 85308, and is a "consumer" as the
19 term is defined by 15 U.S.C. § 1692a(3).
20

21 5. The Defendant, ARS National Services, Inc. (hereafter "ARS"), is a company
22 with an address of 960 South Andreasen Drive, Suite B, Escondido, California 92029,
23 operating as a collection agency, and is a "debt collector" as the term is defined by 15
24 U.S.C. § 1692a(6).
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1 6. Does 1-10 (the “Collectors”) are individual collectors employed by ARS and
2 whose identities are currently unknown to the Plaintiff. One or more of the Collectors
3 may be joined as parties once their identities are disclosed through discovery.
4

5 7. ARS at all times acted by and through one or more of the Collectors.
6

7 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

8 **A. The Debt**

9 8. The Plaintiff allegedly incurred a financial obligation on two separate accounts
10 in the approximate amounts of \$1,607.00 and \$800.00 (the “Debt”) to Capital One
11 (the “Creditor”).
12

13 9. The Debt arose from services provided by the Creditor which were primarily
14 for family, personal or household purposes and which meets the definition of a “debt”
15 under 15 U.S.C. § 1692a(5).
16

17 10. The Debt was purchased, assigned or transferred to ARS for collection, or ARS
18 was employed by the Creditor to collect the Debt.
19

20 11. The Defendants attempted to collect the Debt and, as such, engaged in
21 “communications” as defined in 15 U.S.C. § 1692a(2).
22

23 **B. ARS Engages in Harassment and Abusive Tactics**

24 12. Within the last year, ARS contacted Plaintiff in an attempt to collect the Debt.
25

26 13. During the initial conversation, Plaintiff informed ARS that it was her intention
27 to settle both accounts owed to the Creditor, and inquired as to the combined total of
28

1 the Debts. ARS informed Plaintiff that her total obligation was approximately
2 \$1,700.00; however ARS stated that it would accept \$900.00 as settlement in full.

3
4 14. Plaintiff specifically asked ARS whether the payment of \$900.00 would satisfy
5 both accounts owed to the Creditor.

6
7 15. Plaintiff was expressly assured by ARS that Plaintiff could pay the amount of
8 \$900.00 to satisfy both accounts and her entire obligation to the Creditor.

9
10 16. Based on the representation by ARS, Plaintiff agreed to make the payment of
11 \$900.00 to satisfy her obligation to the Creditor in full.

12 17. ARS sent Plaintiff a letter, offering to settle the total Debt of \$1700.90 for a one
13 time payment of \$900.00.

14
15 18. After Plaintiff made the payment to ARS, Plaintiff checked her credit report and
16 discovered that her \$900.00 payment was applied to the smaller Debt of \$800.00; the
17 account status had been changed to “paid in full”; and the Creditor continued
18 reporting \$1607.00 as a charged-off account.
19

20
21 **C. Plaintiff Suffered Actual Damages**

22 19. The Plaintiff has suffered and continues to suffer actual damages as a result of
23 the Defendants’ unlawful conduct.

24
25 20. As a direct consequence of the Defendants’ acts, practices and conduct, the
26 Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional
27 distress, fear, frustration and embarrassment.
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1 21. The Defendants' conduct was so outrageous in character, and so extreme in
2 degree, as to go beyond all possible bounds of decency, and to be regarded as
3 atrocious, and utterly intolerable in a civilized community.
4

5
6 **COUNT I**
7 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

8 **15 U.S.C. § 1692, et seq.**

9 22. The Plaintiff incorporates by reference all of the above paragraphs of this
10 Complaint as though fully stated herein.
11

12 23. The Defendants engaged in behavior the natural consequence of which was to
13 harass, oppress, or abuse the Plaintiff in connection with the collection of a debt, in
14 violation of 15 U.S.C. § 1692d.
15

16 24. The Defendants used false, deceptive, or misleading representation or means in
17 connection with the collection of a debt, in violation of 15 U.S.C. § 1692e.
18

19 25. The Defendants employed false and deceptive means to collect a debt, in
20 violation of 15 U.S.C. § 1692e(10).
21

22 26. The Defendants used unfair and unconscionable means to collect a debt, in
23 violation of 15 U.S.C. § 1692f.

24 27. The Defendants did not apply payments to multiple debts in the order specified
25 by the Plaintiff, in violation of 15 U.S.C. § 1692h.
26
27
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1 28. The foregoing acts and omissions of the Defendants constitute numerous and
2 multiple violations of the FDCPA, including every one of the above-cited provisions.

3
4 29. The Plaintiff is entitled to damages as a result of the Defendants' violations.

5
6 **PRAYER FOR RELIEF**

7 WHEREFORE, the Plaintiff prays that judgment be entered against the
8 Defendants as follows:

9 A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the
10 Defendants;

11 B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C.
12 §1692k(a)(2)(A) against the Defendants;

13 C. Costs of litigation and reasonable attorneys' fees pursuant to
14 15 U.S.C. § 1692k(a)(3) against the Defendants;

15 D. Actual damages from the Defendants all damages suffered as a result
16 of the intentional, reckless, and/or negligent FDCPA violations in an
17 amount to be determined at trial for the Plaintiff;

18 E. Punitive damages; and

19 F. Such other and further relief as may be just and proper.
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25 **TRIAL BY JURY DEMANDED ON ALL COUNTS**
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1 DATED: July 3, 2013

LEMBERG & ASSOCIATES, LLC

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3 By: /s/ Trinette G. Kent
4 Trinette G. Kent

5 Attorney for Plaintiff,
6 Jennifer Tierney
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